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			3714	

DATE MAILED: 08/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,403

Applicant(s)

HARTL, JOSEF ALEXANDER

Examiner

Alex P. Rada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-27 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 27 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/10/05.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

In response to the amendment filed May 27, 2005 in which the applicant amends claims 1-8, 10, 12, and 14-17, adds new claims 18-27, and claims 1-27 are pending in this application.

Drawings

1. The drawings were received on May 27, 2005. These drawings are not acceptable because they introduce new mater.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filled does not disclose enabling the player to view another hand and play the game with the other hand using the remaining forfeited wager amount, which is considered to be new matter. Also, the specification does not enable how the other hand is generated. Does the first hand get completely discarded and a set of new cards are given thus becoming the second or other hand or does the designated discarded cards get replaced with new cards thus becoming the second

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or other hand? The examiner requests that applicant point out in the specification claimed subject matter.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 16, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Brunelle (US 6,029,976).

6. Brunelle disclose the following:

A player placing a maximum wager permitted to be placed in the game, in which the examiner interprets the initial bet to be an equivalent to the maximum wager permitted, the player viewing an initial hand, the player electing to continue ordinary play of the game with the initial hand or surrender by forfeiting a portion of the maximum wager, if the player surrenders, determining a wager amount that is based on a difference between the maximum wager and the forfeited portion of the maximum wager, in which the examiner interprets the surrendering half the bet to be an equivalent to a portion of the maximum wager, the game holding the wager amount, and enabling the player to view another hand (figure 2) and play the game with the other hand using the held wager amount, in which the examiner interpret the discarding/surrendering of cards and receiving replacement cards to be an equivalent to the other hand and the game ending for the player, in which the

examiner interprets the process in col. 3, lines 37-47 (figure 2) to be equivalent to determining a wager amount that is based on a difference between the maximum wager and the forfeited portion of the maximum wager, the game holding the wager amount, and enabling the player to view another hand and play the game with the other hand using the held wager amount and the game ending for the player as recited in claim 1.

A possible player's hand cannot be revealed in ending the game for the player (Figure 2) as recited in claim 2.

A possible player's hand can be revealed to the player (figure 2) as recited in claim 3.

A player placing a wager on the game, the player viewing an initial hand, the player electing to continue ordinary play of the game with the initial hand or surrender by forfeiting a portion, in which the examiner interprets the surrendering of half the bet to be an equivalent to a portion of the wager, if the player surrender, the game holding a wager amount that is based on a difference between the wager and the forfeited portion of the wager, and the player viewing another hand, in which the examiner interpret the discarding/surrendering of cards and receiving replacement cards to be an equivalent to the other hand and playing the game with the other hand using the held wager amount and the game ending for the player, in which the examiner interprets the process in col. 3, lines 37-47 to be equivalent to the game holding a wager amount that is based on a difference between the wager and the forfeited portion of the wager, and the player viewing another hand and

playing the game with the other hand using the held wager amount and the game ending for the player (figure 2) as recited in claim 16.

Receiving a wager from a player, displaying at least one hand for a card game (figure 2), dealing a first set of cards to the player's hand (figure 2), receiving a first input or a second input provided by the player (figure 2 item 42), if the first input is received, operating the card game based on the first set of cards and providing the player with any winning outcome occurring during the card game (figure 2), and if the second input is received, forfeiting a portion of the wager, in which the examiner interprets the surrendering of half the wager to be equivalent to a portion of the wager (figure 2), determining a wager amount that is based on a difference between the wager and the forfeited portion of the wager, holding the determined wager amount (figure 2), dealing a second set of cards to the player's hand, in which the examiner interprets the discarding/surrendering of cards and receiving replacement cards to be an equivalent to dealing a second set of cards to the player's hand, applying the determined wager amount to the card game that is based on the second set of cards, and providing the player with any winning outcome that occurs in the card game (figure 2 and col. 3, lines 37-47) as recited in claim 18.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

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skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brunelle (US 6,029,976) in view of Delaney et al. (US 5,911,419).

9. Brunelle discloses the claimed invention as discussed above except for the following:

The game being five-card draw poker and wild card variant of five-card draw poker as recited in claims 4 and 5.

Delaney et al teaches the following:

A method of playing card wagering games that enables players to select the playing card game to be played, which include the games of draw poker, deuces wild, and joker wild, in which the examiner interpret the different poker type game to be an equivalent to being five-card draw poker and wild card variant of five-card draw poker (figure 4) as recited in claims 4 and 5. By having different variations of poker, one of ordinary skill in the art would provide game players a selection a card games to be played.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Brunelle to include five-card draw poker and wild card variant of five-card draw poker as taught by Delaney et al to provide game players a selection a card games to be played.

10. Claims 6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over English (US 5,984,310) in view of Brunelle (US 6,029,976).

11. English discloses the following:

Providing a plurality of different pay table (col. 3, lines 47-57), each on of the pay table having at lest one different payout rate for at least one identical hand (col.

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3, lines 47-57), a player placing a maximum wager on the game against a first one of the pay table, the maximum wager being the greatest wager permitted to be placed in the game, in which the examiner interprets the initial wager and a second wager to stay with the new draw hand to be an equivalent to the maximum wager on the game against a first one of the pay table and the maximum wager being the greatest wager permitted to be placed in the game and a second pay table having payout rates that is lower than the payout rate of the first pay table (col. 3, lines 47-57) as recited in claims 6 and 17.

English does not expressly disclose the following:

The player viewing an initial hand, the player electing to continue ordinary play of the game or surrendering by forfeiting portions of the maximum wager resulting in a remaining portion of the maximum wager, if the player elects to surrender, the remaining portion is held by the game and used in the game and continuing play of the game as recited in claims 6 and 17.

Brunelle teaches the following:

The player viewing an initial hand, the player electing to continue ordinary play of the game or surrendering by forfeiting portions of the maximum wager resulting in a remaining portion of the maximum wager, in which the examiner interprets the surrendering half of the wager to be equivalent to forfeiting portions of the maximum wager, if the player elects to surrender, the remaining portion is held by the game and used in the game and continuing play of the game (figure 2) as recited in claims 6 and 17. By having a second payable that is lower than the payout rate of the first table, one of ordinary skill in the art would allow game players to

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make key decisions during game play by having the option to quit with a reduced amount of a loss on a bad hand and to stimulates player interest and have a quick outcome to resolve wagering during the game.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify English to include the player viewing an initial hand, the player electing to continue ordinary play of the game or surrendering by forfeiting portions of the maximum wager resulting in a remaining portion of the maximum wager, if the player elects to surrender, the remaining portion is held by the game and used in the game and continuing play of the game as taught by Brunelle to allow game players to make key decisions during game play by having the option to quit with a reduced amount of a loss on a bad hand and to stimulates player interest and have a quick outcome to resolve wagering during the game.

12. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over English (US 5,984,310) in view of Brunelle (US 6,029,976) as applied to claim 6 above, and further in view of Charron et al. (US 5,542,669).

13. English in view of Brunelle disclose the claimed invention as discussed above except for the following:

The surrendering may be performed only when a maximum wager has been made in the wagering game as recited in claim 7.

Charron et al teaches the following:

A video poker game having wager amount qualifiers for activating certain features within the game like bonus rounds, bonus pay or the like based upon the

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number of coins wagered or a designated amount like maximum bet (column 12, line 43 – column 13, line 2). The surrendering capable of being performed only when a maximum wager has been made in the wagering game, in which the examiner interprets the wager amount qualifiers to be an equivalent to the surrendering being permitted when the player has placed a maximum bet (column 12, line 43 – column 13, line 2) as recited in claim 7. By having wager amount qualifiers for activating certain features, one of ordinary skill in the art would encourage more players to bet the maximum while covering casino operating costs.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify English to further include surrendering capable of being performed only when a maximum wager has been made in the wagering game as taught by Charron et al to provide an interactive poker game by encouraging more players to bet the maximum while covering casino operating costs.

14. Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sklansky et al. (US 6,511,068) in view of Wood et al. (US 6,342,007) and Brunelle (US 6,029,976).

15. Sklansky et al discloses the following:

A visual display (figure 13), a plurality of player controls including a surrender (fold) player control (figure 13), and a processor and memory, the processor programmed to execute and display a poker game after receiving a wager from a player as recited in claim 8.

The processor further programmed to permit execution of a bet surrender when a maximum wager is placed, in which the examiner interprets the initial wager

of the game to be an equivalent to the bet surrender when a maximum wager is placed as recited in claim 9.

The surrender results in forfeiture of one of a plurality of designated percentages of the wager, in the examiner interprets the surrendering to be any desired portion to be an equivalent to one of a plurality of designated percentages of the wager (column 14, lines 60-65) as recited in claim 10.

The plurality of winning outcomes are five card poker comes (column 9, lines 5-12) as recited in claim 11.

Sklansky et al does not expressly disclose the following:

The processor further programmed to prohibit surrender when an initial displayed hand is one of a plurality of winning outcomes, permit surrender when the initial displayed hands is a designated other outcome, the surrender in forfeiture of a portion of the wager, determination of a wager amount that is based on a difference between the wager and the forfeited portion of the wager, holding the wager amount by the game and the wager amount in operation of the game involving another displayed hand as recited in claim 8.

Wood et al teaches the following:

A video poker game having an indicator for indicating to the player when an initial displayed hand is one of a plurality of winning outcomes (figure 1) as recited in claim 8. By having an indication of an initial win, one of ordinary skill in the art would provide game players with a visual indication of a winning outcome and to prohibit the player from inadvertently surrendering a winning outcome.

Brunelle teaches the following:

Permit surrender when the initial displayed hands is a designated other outcome, in which the examiner interprets a non winning initial hand to be an equivalent to surrender when the initial displayed hands is a designated other outcome, the surrender in forfeiture of a portion of the wager (figure 2), determination of a wager amount that is based on a difference between the wager and the forfeited portion of the wager, holding the wager amount by the game and the wager amount in operation of the game involving another displayed hand (figure 2) as recited in claim 8. By having using the remainder of the forfeited wager on another displayed hand, one of ordinary skill in the art would allow game players to make key decisions during game play by having the option to quit with a reduced amount of a loss on a bad hand.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Sklansky et al to include an indicator for initial winning outcome, permit surrender when the initial displayed hands is a designated other outcome, the surrender in forfeiture of a portion of the wager, determination of a wager amount that is based on a difference between the wager and the forfeited portion of the wager, holding the wager amount by the game and the wager amount in operation of the game involving another displayed hand as taught by Wood et al and Brunelle to provide game players with a visual indication of a winning outcome, to prohibit the player from inadvertently surrendering a winning outcome and allow game players to make key decisions during game play by having the option to quit with a reduced amount of a loss on a bad hand.

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16. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sklansky et al. (US 6,511,068) in view of Charron et al. (US 5,542,669) and Brunelle (US 6,029,976).

17. Sklansky et al discloses the following:

A player placing a wager to participated in a video poker game, displaying an initial hand of cards on a video game machine display (figure 1), providing an opportunity for the player to surrender a portion of the wager (column 14, lines 60-65) as recited in claim 12.

The surrender results in forfeiture of one of a plurality of designated percentages of the wager and the designated percentage includes 40% and 60%, in the examiner interprets the surrendering to be any desired portion to be an equivalent to one of a plurality of designated percentages of the wager the designated percentage includes 40% and 60% (column 14, lines 60-65) as recited in claims 14 and 15.

Sklansky et al does not expressly disclose the following:

Surrendering a portion of the wager unless the initial hand is a predetermined winning hand, providing an opportunity to replace at least one card of the initial hand resulting in another hand, the game holding a wager amount that is based on a difference between the wager and the surrendered portion of the wager, and resolving the other hand using the held wager amount as recited in claim 12.

The surrendering being permitted when the player has placed a maximum bet as recited in claim 13.

Charron et al teaches the following:

A video poker game having an indicator for visually informing the player that the initial hand is a predetermined winning hand (figure 3-5 and column 12, line 43 – column 13, line 2) as recited in claim 12.

A video poker game having wager amount qualifiers for activating certain features within the game like bonus rounds, bonus pay or the like based upon the number of coins wagered or a designated amount like maximum bet (column 12, line 43 – column 13, line 2). The surrendering being permitted when the player has placed a maximum bet, in which the examiner interprets the wager amount qualifiers to be an equivalent to the surrendering being permitted when the player has placed a maximum bet (column 12, line 43 – column 13, line 2) as recited in claim 13. By having an indication of a predetermined winning hand and wager amount qualifiers for activating certain features, one of ordinary skill in the art would encourage more players to bet the maximum while covering casino operating costs.

Brunelle teaches the following:

Providing an opportunity to replace at least one card of the initial hand resulting in another hand (figure 2 items 44, 46, 48, and 50), the game holding a wager amount that is based on a difference between the wager and the surrendered portion of the wager, and resolving the other hand using the held wager amount (figure 2) as recited in claim 12. By using the remainder of the forfeited wager on another displayed hand, one of ordinary skill in the art would allow game players to make key decisions during game play by having the option to quit with a reduced amount of a loss on a bad hand.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Sklansky et al to include surrendering a portion of the wager unless the initial hand is a predetermined winning hand, providing an opportunity to replace at least one card of the initial hand resulting in another hand, the game holding a wager amount that is based on a difference between the wager and the surrendered portion of the wager, and resolving the other hand using the held wager amount and the surrendering being permitted when the player has placed a maximum bet as taught by Charron et al and Brunelle to allow game players to make key decisions during game play by having the option to quit with a reduced amount of a loss on a bad hand and encourage more players to bet the maximum while covering casino operating costs.

18. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brunelle (US 6,029,976) in view of Breeding (6,273,424).

19. Brunelle further discloses the following:

Receiving the second input only if the wager placed for the card game is equal to the maximum wager, in which the examiner interprets the ante amount in the bonus area (16) to be an equivalent to receiving the second input only if the wager placed for the card game is equal to the maximum wager as recited in claim 22.

Brunelle discloses the claimed invention as discussed above except for the following:

Designating a plurality of different portions of the wager and designating a plurality of different winning odds for the card game each one of the winning odds associated with a different one of the designated portions of the wager as recited in claim 19.

Determining which one of the winning odds corresponds to the forfeited portion of the wager and applying the determined winning odds to determine whether the winning outcome occurs in the card game the card game being based on the second set of cards as recited in claim 20.

Designating a plurality of different wagers, which can be placed for the card game, the wagers including a maximum wager and at least one wager, which is less than the maximum wager as recited in claim 21.

Breeding et al teaches the following:

Designating a plurality of different portions of the wager and designating a plurality of different winning odds for the card game each one of the winning odds associated with a different one of the designated portions of the wager, in which the examiner interprets the wagering areas 22a, b, c, and 23a-g to be equivalent to the designating a plurality of different portions of the wager and designating a plurality of different winning odds for the card game each one of the winning odds associated with a different one of the designated portions of the wager (figure 1) as recited in claim 19.

Determining which one of the winning odds corresponds to the forfeited portion of the wager and applying the determined winning odds to determine whether the winning outcome occurs in the card game the card game being based on the second set of cards, in which the examiner interprets the forfeiting of wagering areas 22a and 22b to be an equivalent to determining which one of the winning odds corresponds to the forfeited portion of the wager and applying the determined

winning odds to determine whether the winning outcome occurs in the card game the card game being based on the second set of cards as recited in claim 20.

Designating a plurality of different wagers, which can be placed for the card game, the wagers including a maximum wager and at least one wager, which is less than the maximum wager, in which the examiner interprets placing a desire wager amount on areas 22a and 22b, and placing more than the desire wager amount on area 22c to be equivalent to designating a plurality of different wagers, which can be placed for the card game, the wagers including a maximum wager and at least one wager, which is less than the maximum wager as recited in claim 21. By having a plurality of different wagers, one of ordinary skill in the art would provide a game that enhances a player's sense of participation and creates a sense of control on the part of the players, possibly resulting in the players wagering more money per hand.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Brunelle to include designating a plurality of different portions of the wager and designating a plurality of different winning odds for the card game each one of the winning odds associated with a different one of the designated portions of the wager, determining which one of the winning odds corresponds to the forfeited portion of the wager and applying the determined winning odds to determine whether the winning outcome occurs in the card game the card game being based on the second set of cards, and designating a plurality of different wagers, which can be placed for the card game, the wagers including a maximum wager and at least one wager, which is less than the maximum wager as taught by Breeding to provide a game that enhances a player's sense of

participation and creates a sense of control on the part of the players, possibly resulting in the players wagering more money per hand.

20. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sklansky et al. (US 6,511,068) in view of Brunelle (US 6,029,976).

21. Sklansky et al disclose the following:

A card game wherein a player plays at least one hand, at least one wager for the card game that is permitted to be placed by the player, at least one winning outcome associated with the card game, display device operable to display the card game and a processor operable with the display device (summery and figure 13) as recited in claim 23.

Sklansky et al does not expressly disclose the following:

Receiving a wager from a player, displaying at least one hand for a car game, dealing a first set of cards to the player's hand, receiving a first input or a second input provide by the player, if the first input is received, operating the card game based on the first set of cards and providing the player with any winning outcome occurring during the card game, and if the second input is received, forfeiting a portion of the wager, in which the examiner interprets the surrendering of half the wager to be equivalent to a portion of the wager, determining a wager amount that is based on a difference between the wager and the forfeited portion of the wager, holding the determined wager amount, dealing a second set of cards to the player's hand, applying the determined wager amount to the card game that is based on the second set of cards, and providing the player with any winning outcome that occurs in the card game as recited in claim 18.

Brunelle teaches the following:

Receiving a wager from a player, displaying at least one hand for a card game (figure 2), dealing a first set of cards to the player's hand (figure 2), receiving a first input or a second input provide by the player (figure 2 item 42), if the first input is received, operating the card game based on the first set of cards and providing the player with any winning outcome occurring during the card game (figure 2), and if the second input is received, forfeiting a portion of the wager, in which the examiner interprets the surrendering of half the wager to be equivalent to a portion of the wager (figure 2), determining a wager amount that is based on a difference between the wager and the forfeited portion of the wager, holding the determined wager amount (figure 2), dealing a second set of cards to the player's hand, in which the examiner interpret the discarding/surrendering of cards and receiving replacement cards to be an equivalent to dealing a second set of cards to the player's hand, applying the determined wager amount to the card game that is based on the second set of cards, and providing the player with any winning outcome that occurs in the card game (figure 2 and col. 3, lines 37-47) as recited in claim 18. By using the remainder of the forfeited wager on another displayed hand, one of ordinary skill in the art would allow game players to make key decisions during game play by having the option to quit with a reduced amount of a loss on a bad hand.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Sklansky et al to include receiving a wager from a player, displaying at least one hand for a card game, dealing a first set of cards to the player's hand, receiving a first input or a second input provide by the

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player, if the first input is received, operating the card game based on the first set of cards and providing the player with any winning outcome occurring during the card game, and if the second input is received, forfeiting a portion of the wager, in which the examiner interprets the surrendering of half the wager to be equivalent to a portion of the wager, determining a wager amount that is based on a difference between the wager and the forfeited portion of the wager, holding the determined wager amount, dealing a second set of cards to the player's hand, applying the determined wager amount to the card game that is based on the second set of cards, and providing the player with any winning outcome that occurs in the card game as taught by Brunelle to allow game players to make key decisions during game play by having the option to quit with a reduced amount of a loss on a bad hand.

22. Claims 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sklansky et al. (US 6,511,068) in view of Brunelle (US 6,029,976) as applied to claim 23 above, and further in view of Breeding (6,273,424).

23. Sklansky et al in view of Brunelle further disclose the following:

Receiving the second input only if the wager placed for the card game is equal to the maximum wager, in which the examiner interprets the ante amount in the bonus area (16) to be an equivalent to receiving the second input only if the wager placed for the card game is equal to the maximum wager as recited in claim 22.

Sklansky et al in view Brunelle discloses the claimed invention as discussed above except for the following:

Designating a plurality of different portions of the wager and designating a plurality of different winning odds for the card game each one of the winning odds

associated with a different one of the designated portions of the wager as recited in claim 19.

Determining which one of the winning odds corresponds to the forfeited portion of the wager and applying the determined winning odds to determine whether the winning outcome occurs in the card game the card game being based on the second set of cards as recited in claim 20.

Designating a plurality of different wagers, which can be placed for the card game, the wagers including a maximum wager and at least one wager, which is less than the maximum wager as recited in claim 21.

Breeding et al teaches the following:

Designating a plurality of different portions of the wager and designating a plurality of different winning odds for the card game each one of the winning odds associated with a different one of the designated portions of the wager, in which the examiner interprets the wagering areas 22a, b, c, and 23a-g to be equivalent to the designating a plurality of different portions of the wager and designating a plurality of different winning odds for the card game each one of the winning odds associated with a different one of the designated portions of the wager (figure 1) as recited in claim 19.

Determining which one of the winning odds corresponds to the forfeited portion of the wager and applying the determined winning odds to determine whether the winning outcome occurs in the card game the card game being based on the second set of cards, in which the examiner interprets the forfeiting of wagering areas 22a and 22b to be an equivalent to determining which one of the winning odds

corresponds to the forfeited portion of the wager and applying the determined winning odds to determine whether the winning outcome occurs in the card game the card game being based on the second set of cards as recited in claim 20.

Designating a plurality of different wagers, which can be placed for the card game, the wagers including a maximum wager and at least one wager, which is less than the maximum wager, in which the examiner interprets placing a desire wager amount on areas 22a and 22b, and placing more than the desire wager amount on area 22c to be equivalent to designating a plurality of different wagers, which can be placed for the card game, the wagers including a maximum wager and at least one wager, which is less than the maximum wager as recited in claim 21. By having a plurality of different wagers, one of ordinary skill in the art would provide a game that enhances a player's sense of participation and creates a sense of control on the part of the players, possibly resulting in the players wagering more money per hand.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Sklansky et al to include designating a plurality of different portions of the wager and designating a plurality of different winning odds for the card game each one of the winning odds associated with a different one of the designated portions of the wager, determining which one of the winning odds corresponds to the forfeited portion of the wager and applying the determined winning odds to determine whether the winning outcome occurs in the card game the card game being based on the second set of cards, and designating a plurality of different wagers, which can be placed for the card game, the wagers including a maximum wager and at least one wager, which is less than the maximum

wager as taught by Breeding to provide a game that enhances a player's sense of participation and creates a sense of control on the part of the players, possibly resulting in the players wagering more money per hand.

Response to Arguments

24. Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

25. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 571-272-4452. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AM
APR



JESSICA HARRISON
PRIMARY EXAMINER